

### **AMENDMENTS TO THE DRAWINGS**

Applicants submit herewith three new sheets of drawings. The attached new sheets of drawings include Figures 10, 11, and 12. Applicants also submit herewith seven (7) Replacement Sheets of Drawings. The attached Replacement Sheets of Drawings include changes to Sheets 1-7 to renumber Sheets 1-7 based on the addition of new Figures 10-12. The attached Replacement Sheets, which include Figures 1-9, replace the original sheets including Figures 1-9.

## **REMARKS**

Applicants' representative would like to thank Examiner Smalley for the courtesies extended during an interview conducted on February 24, 2010. During the interview, the objections to the specification and drawings were discussed. Furthermore, the rejections under 35 U.S.C. § 112, first paragraph, were also discussed. Applicants' representative identified portions of the specification and drawings that provide support for the elements of Claims 1-3, 5-8, and 11. The Examiner seemed receptive to the foregoing but indicated that a review with his supervisor is required before any amendments to the drawings based on the as-filed specification and drawings can be entered into the Record. The Examiner agreed to review the identified portions of the specification and drawings with his supervisor and provide feedback as soon as possible. Furthermore, the Examiner requested that Applicants submit a Replacement Specification.

In addition to the foregoing, the rejection of independent Claims 1 and 12 under 35 U.S.C. § 102(b) were discussed. Applicants' representative presented arguments to the Examiner that Kutcher (U.S. Pat. No. 3,601,273) and Hadley (U.S. Pat. No. 3,910,443) each fail to disclose the elements of independent Claim 1, as each include a device having a uniform diameter and could therefore not function in a manner as suggested by the Examiner. With respect to independent Claim 1, Applicants' representative presented arguments to the Examiner that Fabrice (U.S. Pat. No. 2,113,176) fails to disclose a guarantee ring that rotates with a jacket. The Examiner indicated that the device of Fabrice is capable of functioning in a manner as recited by independent Claim 11 and, as a result, anticipates the elements of independent Claim

11. No agreements were reached with respect to patentability. Furthermore, no exhibits were shown or demonstrations conducted.

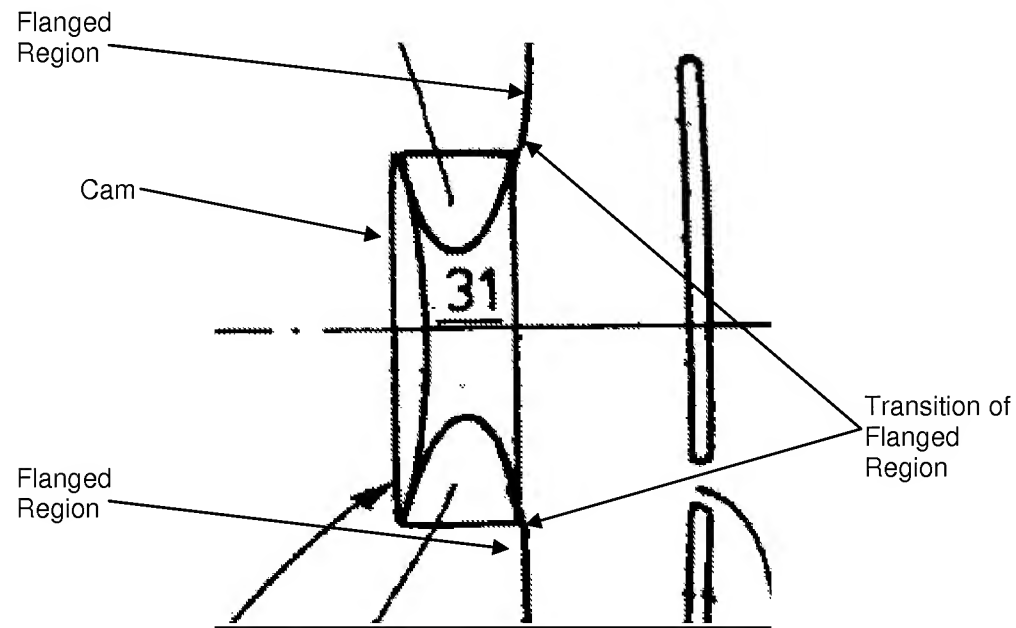
Claims 1-3, 5-8, and 11-21 are now pending in the application. By this Paper, Claims 5 and 11 have been amended. The basis for the foregoing amendments can be found throughout the specification, claims, and drawings originally filed. No new matter has been added. The preceding amendments and the following remarks are believed to be fully responsive to the outstanding Office Action and are believed to place the application in condition for allowance. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

#### **DRAWINGS**

The drawings stand objected to under 37 CFR § 1.83(a) as failing to show every feature of the invention specified in the claims. Specifically, the Examiner asserts that the flanged region laterally surrounding the cam recited by Claim 11 is not shown in the drawings.

Applicants respectfully submit that every feature of Claim 11 is shown on the drawings. Despite this fact, Applicants submit herewith three new sheets of drawings including Figures 10-12 which even further show the features of Claim 11. Of Figures 10-12, Figures 10 and 11 show the flanged region laterally surrounding a cam, as recited by Claim 11. Applicants respectfully submit that support for new Figures 10 and 11 can be found in the as-filed application at Paragraphs [0034], [0040], [0059], [0074], and [0075], and Figures 1 and 3, for example. With respect to the flanged region laterally surrounding

the cam, as recited by Claim 11 and shown in Figure 10, Applicants submit that this feature is shown in Figure 1, as filed. For example, see the partial, annotated reproduction of Figure 1 below, showing the flanged region laterally surrounding the cam.



Applicants note that Figure 11 is similar to what is shown in Figure 3 but provides a perspective view of the capping system before the guarantee ring is formed rather than the side view shown in Figure 3.

In addition to the New Sheets of Drawings, Applicants also submit herewith seven (7) Replacement Sheets of Drawings. The Replacement Sheets are renumbered to reflect the addition of Figures 10-12.

Applicants respectfully submit that the elements of Claim 11 are fully supported by the application, as filed, and are now shown in Figures 1 and 10. Accordingly, reconsideration and withdrawal of the objections are respectfully requested.

## **SPECIFICATION**

Applicants submit herewith a Replacement Specification in amended format and clean format, as required by the Examiner. The Replacement Specification includes no new matter.

## **REJECTION UNDER 35 U.S.C. § 112**

Claims 1-3 and 5-8 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Specifically, the Examiner asserts that the disclosure lacks support for an embodiment wherein there is a cut and an area of reduced thickness. These rejections are respectfully traversed.

As indicated above, Applicants submit herewith three New Sheets of Drawings. The New Sheets of Drawings include the addition of Figure 12, which identifies a thinner wall segment (27'). Applicants respectfully submit that the application, as filed, adequately describes a thinner wall segment in a region of the cam (25) at Paragraphs [0040] and [0061]. Applicants submit that the information recited in Paragraphs [0040] and [0061], when taken in combination, provide support for a cap having a thinner wall segment (27') in a region of the cam (25) in combination with at least one vertical cut.

In light of the foregoing, Applicants respectfully submit that Claims 1-3 and 5-8 are in condition for allowance. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

## **MODELS, EXHIBITS, AND SPECIMENS**

During the interview conducted on February 24, 2010, the Examiner suggested submitting an artifact to the Office to facilitate the Examiner's understanding of the device of the subject patent application and to provide a basis for submitting amendments to the current drawings and/or new drawings. The Examiner indicated that such artifacts should include an affidavit or a sworn statement regarding what such artifacts purport to show.

Applicants submit herewith a series of photographs detailing a capping system for a container and state that the capping system shown in the attached photographs are representative of what is illustrated in the as-filed drawings, as well as in new Figures 10-12. Applicants further note that artifacts of the capping system shown in the attached photographs could not be obtained prior to the filing of the present Response. Applicants will submit artifacts similar or identical to those shown in the attached photographs when they become available.

Applicants have thoroughly reviewed the Manual of Patent Examining Procedures (MPEP) and are unable to identify a section in the Manual or Title 37 that requires such an affidavit or sworn statement to accompany a model, exhibit, or specimen. Rather, 37 CFR § 1.91(a)(2) indicates that a model or exhibit will be admitted as part of the Record if specifically required by the Office and is silent with respect to submitting a statement—sworn or otherwise. See the MPEP at Section 608.03 and 37 CFR § 1.91. Because Title 37 does not appear to require a sworn statement or affidavit, Applicants have not submitted such a statement.

### **REJECTION UNDER 35 U.S.C. §§ 102 AND 103**

Claims 1-3 and 5-8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hadley (U.S. Pat. No. 3,910,443). Claims 1-3 and 5-8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kutcher (U.S. Pat. No. 3,601,273). Claims 11-14 and 16-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Fabrice (U.S. Pat. No. 2,113,176).

Claims 15 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fabrice (U.S. Pat. No. 2,113,176), as applied above to Claim 9, and further in view of Kutcher (U.S. Pat. No. 3,601,273).

These rejections are respectfully traversed.

With respect to independent Claim 1, Applicants respectfully submit that Hadley and Kutcher each fail to disclose the elements of independent Claim 1 and, further, that the devices of Hadley and Kutcher would not “inherently perform as claimed” if applied onto a container neck, as asserted by the Examiner at Pages 4 and 5 of the Office Action mailed January 19, 2010.

Hadley discloses a closure cap including a metal shell (1), an internal gasket (2), vertical score lines (4), and peripheral score lines (5). See Hadley at Col. 2, Ins. 61-68, and Col. 3, Ins. 1-16, and Figures 1-3. The closure cap of Hadley engages a screw-threaded bottle such that removal of the closure cap requires the cap to be unthreaded from the bottle. See Hadley at Col. 3, Ins. 25-30. The closure cap of Hadley includes a constant diameter at a distal end thereof with the vertical score lines (4) being formed on an inner surface of the closure cap. See Hadley at Figure 3.

Kutcher discloses a closure for a container including a locking band (17) having four (4) vertically disposed weakening lines (18). See Kutcher at Col. 3, Ins. 37-38, and Figures 1 and 4. The weakening lines (18) are “preferably” equally spaced around the locking band (17) and are formed on an internal surface of the band. See Kutcher at Col. 3, Ins. 38-40, and Figures 1 and 4. The closure threadably engages a neck of a container such that the locking band (17) generally surrounds the neck of the container and includes a substantially constant and uniform diameter. See Kutcher at the Abstract and Figure 4.

Applicants note that while Hadley discloses score lines (4) and Kutcher discloses weakening lines (18), neither the score lines (4) nor the weakening lines (18) are described or shown as being disposed in a region surrounding a cam. Furthermore, Applicants submit that positioning either the score lines (4) of Hadley or the weakening lines (18) of Kutcher such that either element (4, 18) is disposed in a region surrounding a cam is not possible, as each of the devices of Hadley and Kutcher are threadably attached to a mouth of a container.

Because the devices of Hadley and Kutcher threadably engage a mouth of a container, engaging the cap onto the mouth of the container necessarily requires that the cap be rotated relative to the container. Positioning either of the score lines (4) or the weakening lines (18) relative to a hypothetical cam would therefore require rotating the score lines (4) or weakening lines (18) relative to and over the hypothetical cam to allow the score lines (4) or weakening lines (18) to be properly positioned relative to the hypothetical cam. Such rotation would result in the score lines (4) or weakening lines



(18) being ruptured as they are rotated over the cam and, as such, would prevent the devices of Hadley and Kutcher from capping a container.

Applicants note that providing sufficient clearance between an inner surface of the closure cap of Hadley or between the closure of Kutcher such that the score lines (4) and weakening lines (18) are spaced apart sufficiently from such a hypothetical cam—to prevent rupturing of the score lines (4) and weakening lines (18) during installation of the device on a container—would prevent the score lines (4) and weakening lines (18) from receiving a force from the cam when the device is rotated relative to the cam. Therefore, the score lines (4) and weakening lines (18) would not “inherently perform as claimed,” as asserted by the Examiner.

With respect to independent Claim 11, Applicants respectfully submit that Fabrice fails to disclose a capping system for a container including a guarantee that rotates with a jacket when a cap is attached and rotated relative to a container.

Fabrice discloses a bottleneck (1) including a series of thread formations (2) and a cap (5) that is received over a distal end of the bottleneck (1). See Fabrice at Col. 2, Ins. 42-50, and Figures 2 and 4. The cap (5) includes a base portion (6) that is matingly received over a generally squared base of the bottleneck (1). See Fabrice at Figures 2 and 4. Applicants respectfully submit that when the cap (5) and base portion (6) are attached and rotated relative to the bottleneck (1), the base portion (6) is severed from the cap (5) to allow the cap (5) to be removed from the bottleneck (1) while the base portion (6) remains in contact with and attached to the bottleneck (1). See Fabrice at Col. 2, Ins. 60-67.

In light of the foregoing, Applicants respectfully submit that independent Claims 1 and 11, as well as Claims 2, 3, 5-8, and 12-21, respectively dependent therefrom, are in condition for allowance. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: March 19, 2010

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## Closure application

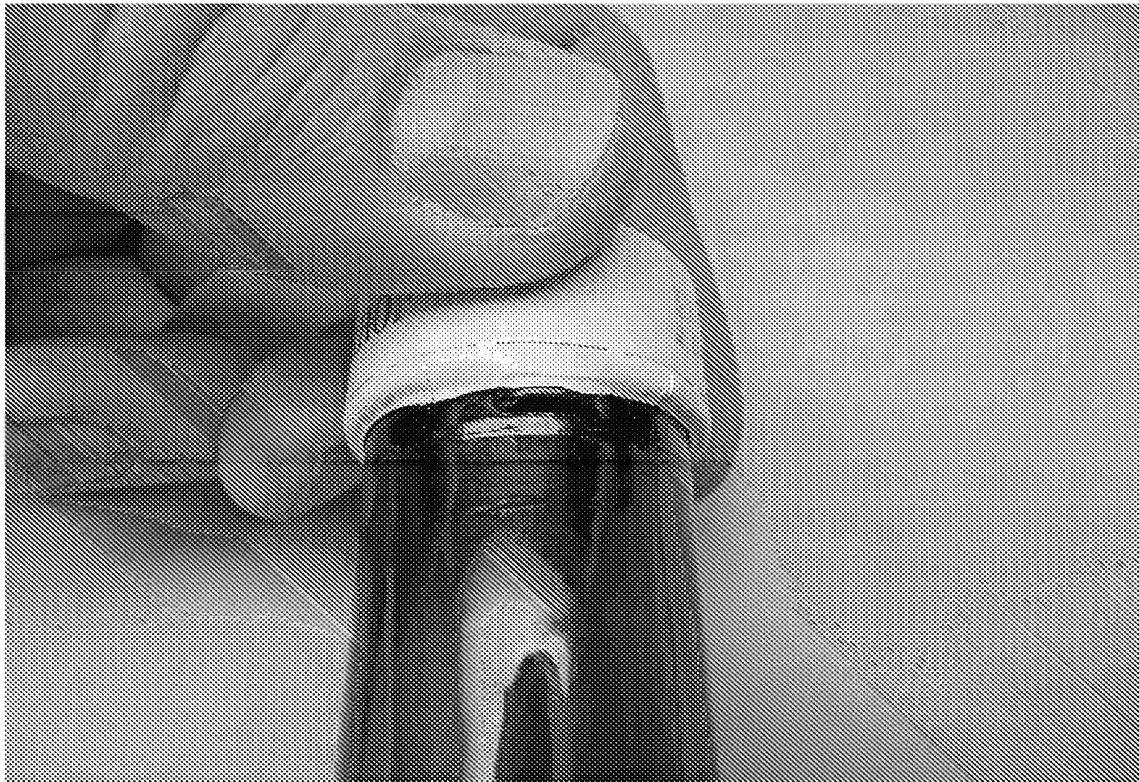


Cap before closing procedure (cap is not fixed, can be turned and pulled of)

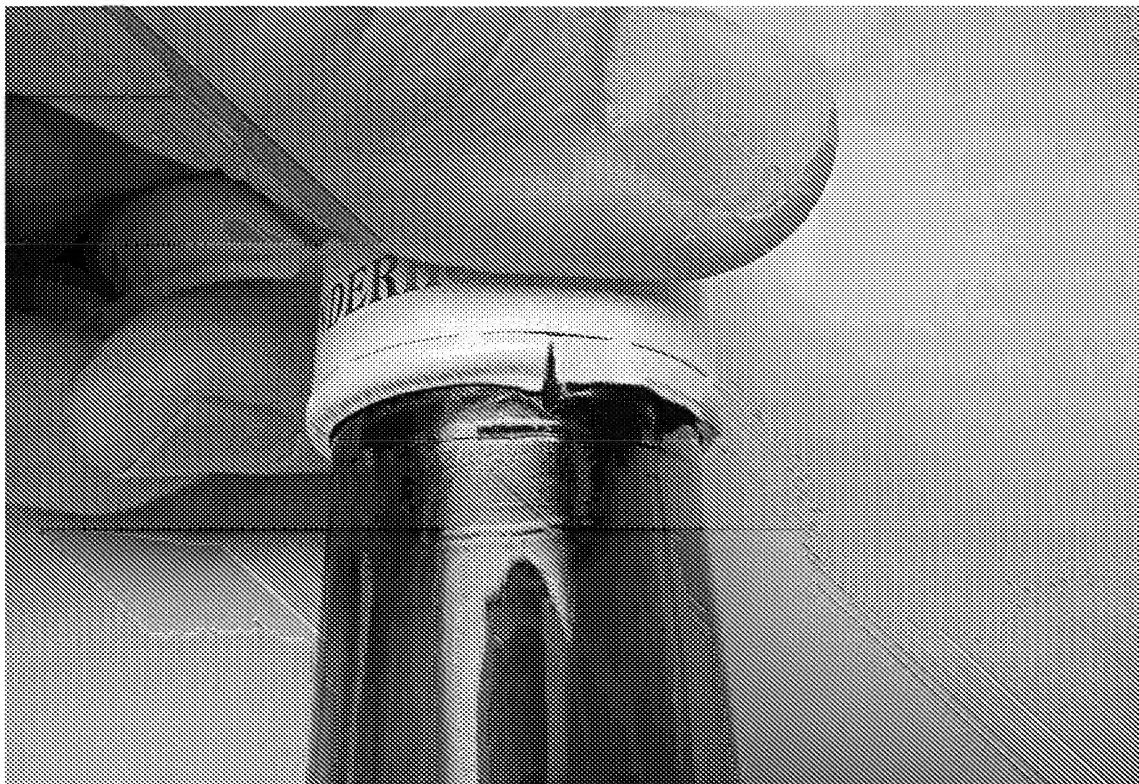


Cap after closing procedure (fixed in axial and radial position)

## Opening sequence

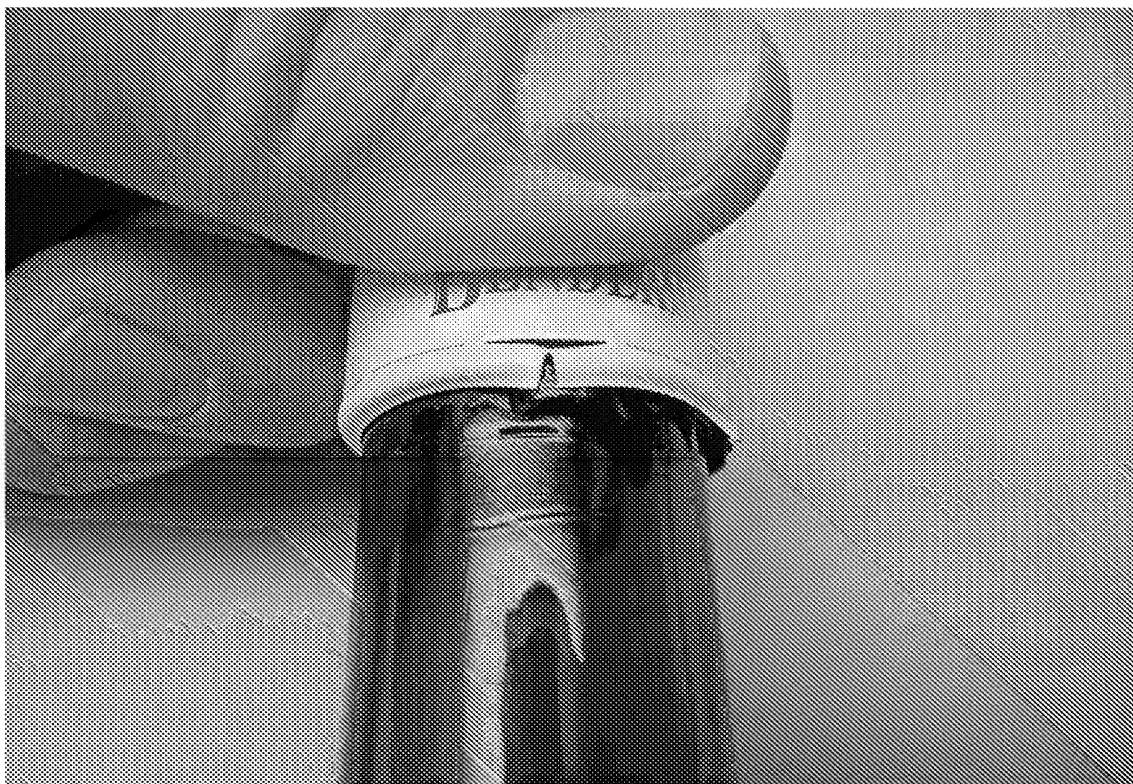


Grip



Start to turn the cap (here counterclockwise)





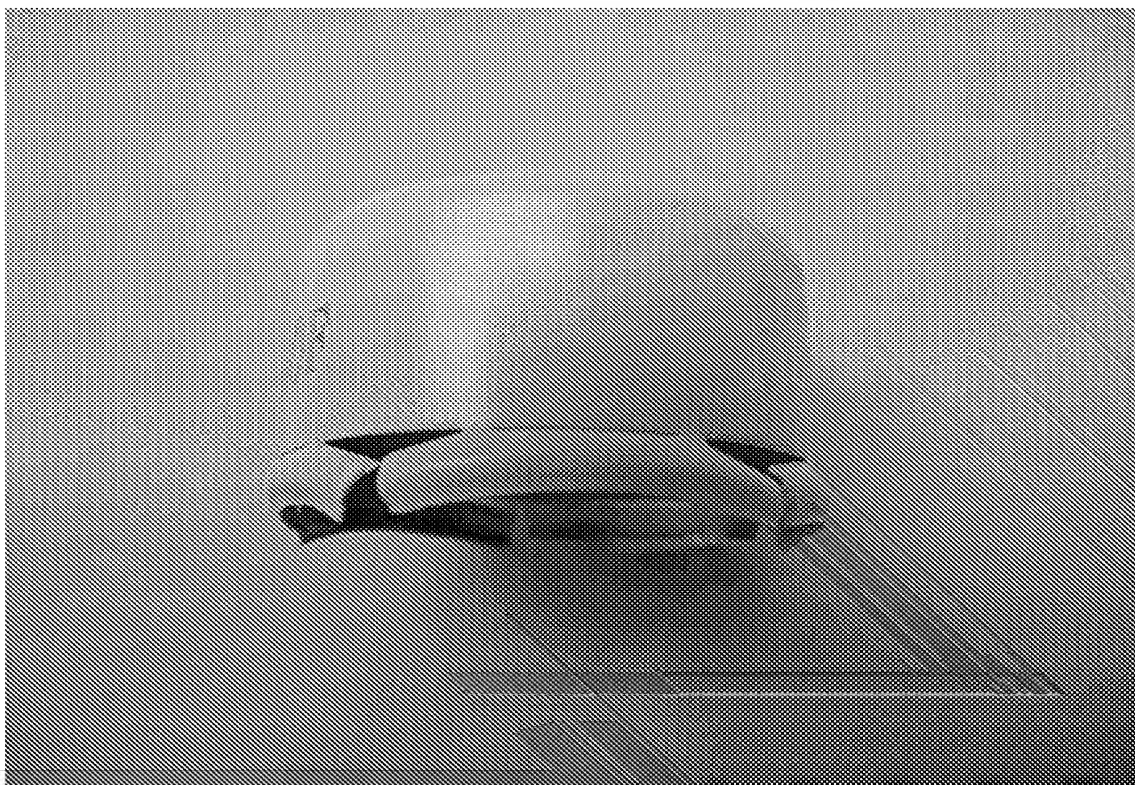
Continue turning the cap



Cap is turned for one complete revolution and is started to be pulled off



Cap is pulled of completely; glass stopper can be removed now

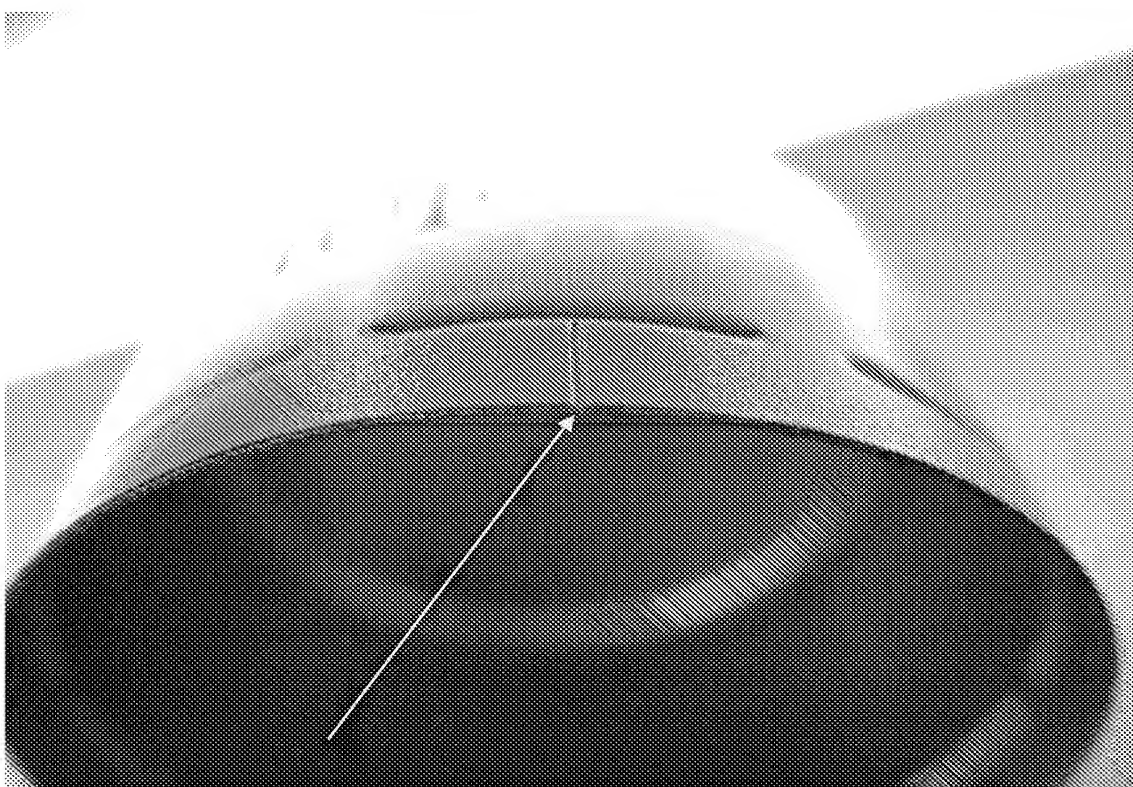


Used cap after removal





New, not used cap



One of the predetermined braking lines in detail